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SENATE BILL 252

**44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999**

INTRODUCED BY

Patrick H. Lyons

AN ACT

RELATING TO GAME AND FISH; PROVIDING THAT THE JAGUAR IS TO BE PROTECTED; PROVIDING FOR CRIMINAL AND CIVIL PENALTIES; PROVIDING PENALTIES FOR VIOLATION OF A CERTAIN SECTION OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new Section 17-2-4.1 NMSA 1978 is enacted to read:

"17-2-4.1. [NEW MATERIAL] JAGUAR TO BE PROTECTED. -- In the event the jaguar is de-listed as a federal endangered species, the department of game and fish shall prohibit the taking, possession and sale of jaguars or parts thereof.

Section 2. Section 17-2-10 NMSA 1978 (being Laws 1931, Chapter 117, Section 7, as amended by Laws 1997, Chapter 119, Section 1 and also by Laws 1997, Chapter 224, Section 1) is

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1 amended to read:

2 "17-2-10. VIOLATION OF GAME AND FISH LAWS OR  
3 REGULATIONS- - PENALTIES. - -

4 A. Any person violating any of the provisions of  
5 Chapter 17 NMSA 1978 or any regulations adopted by the state  
6 game commission that relate to the time, extent, means or  
7 manner that game animals, birds or fish may be hunted, taken,  
8 captured, killed, possessed, sold, purchased or shipped is  
9 guilty of a misdemeanor and upon conviction may be sentenced  
10 to imprisonment in the county jail for a term not to exceed  
11 six months. In addition, the person shall be sentenced to the  
12 payment of a fine in accordance with the following schedule:

13 (1) for illegally taking, attempting to take,  
14 killing, capturing or possessing of each deer, antelope,  
15 javelina, bear or cougar during a closed season, a fine of  
16 four hundred dollars (\$400);

17 (2) for illegally taking, attempting to take,  
18 killing, capturing or possessing of each elk, bighorn sheep,  
19 oryx, ibex or Barbary sheep, a fine of one thousand dollars  
20 (\$1,000);

21 (3) for hunting big game without a proper and  
22 valid license, lawfully procured, a fine of one hundred  
23 dollars (\$100);

24 (4) for exceeding the bag limit of any big  
25 game species, a fine of four hundred dollars (\$400);

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1 (5) for attempting to exceed the bag limit of  
2 any big game species by the hunting of any big game animal  
3 after having tagged a similar big game species, a fine of two  
4 hundred dollars (\$200);

5 (6) for signing a false statement to procure  
6 a resident hunting or fishing license when the applicant is  
7 residing in another state at the time of application for a  
8 license, a fine of four hundred dollars (\$400);

9 (7) for using a hunting or fishing license  
10 issued to another person, a fine of one hundred dollars  
11 (\$100);

12 (8) for a violation of Section 17-2-31 NMSA  
13 1978, a fine of three hundred dollars (\$300); [ and]

14 (9) for selling, offering for sale, offering  
15 to purchase or purchasing any big game animal, unless  
16 otherwise provided by Chapter 17 NMSA 1978, a fine of one  
17 thousand dollars (\$1,000);

18 (10) for illegally taking, attempting to  
19 take, killing, capturing or possessing of each jaguar, a fine  
20 of one thousand dollars (\$1,000); and

21 (11) for a violation of Section 17-2A-3 NMSA  
22 1978, a fine of five hundred dollars (\$500).

23 B. A person convicted a second time for violating  
24 any of the provisions of Chapter 17 NMSA 1978 or any  
25 regulations adopted by the state game commission that relate

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1 to the time, extent, means or manner that game animals, birds  
2 or fish may be hunted, taken, captured, killed, possessed,  
3 sold, purchased or shipped is guilty of a misdemeanor and upon  
4 conviction may be sentenced to imprisonment in the county jail  
5 for a term of not more than three hundred sixty-four days. In  
6 addition, the person shall be sentenced to the payment of a  
7 fine in accordance with the following schedule:

8 (1) for illegally taking, attempting to take,  
9 killing, capturing or possessing of each deer, antelope,  
10 javelina, bear or cougar during a closed season, a fine of six  
11 hundred dollars (\$600);

12 (2) for illegally taking, attempting to take,  
13 killing, capturing or possessing of each elk, bighorn sheep,  
14 oryx, ~~[or]~~ ibex or Barbary sheep, a fine of one thousand five  
15 hundred dollars (\$1,500);

16 (3) for hunting big game without a proper and  
17 valid license, lawfully procured, a fine of four hundred  
18 dollars (\$400);

19 (4) for exceeding the bag limit of any big  
20 game species, a fine of six hundred dollars (\$600);

21 (5) for attempting to exceed the bag limit of  
22 any big game species by the hunting of any big game animal  
23 after having tagged a similar big game species, a fine of six  
24 hundred dollars (\$600);

25 (6) for signing a false statement to procure

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1 a resident hunting or fishing license when the applicant is  
2 residing in another state at the time of application for a  
3 license, a fine of six hundred dollars (\$600);

4 (7) for using a hunting or fishing license  
5 issued to another person, a fine of two hundred fifty dollars  
6 (\$250);

7 (8) for a violation of Section 17-2-31 NMSA  
8 1978, a fine of five hundred dollars (\$500); [ and]

9 (9) for selling, offering for sale, offering  
10 to purchase or purchasing any big game animal, unless  
11 otherwise provided by Chapter 17 NMSA 1978, a fine of one  
12 thousand five hundred dollars (\$1,500);

13 (10) for illegally taking, attempting to  
14 take, killing, capturing or possessing of each jaguar, a fine  
15 of one thousand five hundred dollars (\$1,500); and

16 (11) for a violation of Section 17-2A-3 NMSA  
17 1978, a fine of one thousand dollars (\$1,000).

18 C. Notwithstanding the provisions of  
19 Section 31-18-13 NMSA 1978, a person convicted a third or  
20 subsequent time for violating any of the provisions of Chapter  
21 17 NMSA 1978 or any regulations adopted by the state game  
22 commission that relate to the time, extent, means or manner  
23 that game animals, birds or fish may be hunted, taken,  
24 captured, killed, possessed, sold, purchased or shipped is  
25 guilty of a misdemeanor and upon conviction may be sentenced

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1 to imprisonment in the county jail for a term of not less than  
2 ninety days, which shall not be suspended or deferred, and not  
3 more than three hundred sixty-four days. In addition, the  
4 person shall be sentenced to the payment of a fine in  
5 accordance with the following schedule:

6 (1) for illegally taking, attempting to take,  
7 killing, capturing or possessing of each deer, antelope,  
8 javelina, bear or cougar during a closed season, a fine of one  
9 thousand two hundred dollars (\$1,200);

10 (2) for illegally taking, attempting to take,  
11 killing, capturing or possessing of each elk, bighorn sheep,  
12 oryx, ibex or Barbary sheep, a fine of three thousand dollars  
13 (\$3,000);

14 (3) for hunting big game without a proper and  
15 valid license, lawfully procured, a fine of one thousand  
16 dollars (\$1,000);

17 (4) for exceeding the bag limit of any big  
18 game species, a fine of one thousand two hundred dollars  
19 (\$1,200);

20 (5) for attempting to exceed the bag limit of  
21 any big game species by the hunting of any big game animal  
22 after having tagged a similar big game species, a fine of one  
23 thousand dollars (\$1,000);

24 (6) for signing a false statement to procure  
25 a resident hunting or fishing license when the applicant is

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1 residing in another state at the time of application for a  
2 license, a fine of one thousand two hundred dollars (\$1,200);

3 (7) for using a hunting or fishing license  
4 issued to another person, a fine of one thousand dollars  
5 (\$1,000);

6 (8) for a violation of Section 17-2-31 NMSA  
7 1978, a fine of one thousand dollars (\$1,000); [ and]

8 (9) for selling, offering for sale, offering  
9 to purchase or purchasing any big game animal, unless  
10 otherwise provided by Chapter 17 NMSA 1978, a fine of three  
11 thousand dollars (\$3,000);

12 (10) for illegally taking, attempting to  
13 take, killing, capturing or possessing of each jaguar, a fine  
14 of three thousand dollars (\$3,000); and

15 (11) for a violation of Section 17-2A-3 NMSA  
16 1978, a fine of two thousand dollars (\$2,000).

17 D. Any person who is convicted of a violation of  
18 any regulations adopted by the state game commission that  
19 relate to the time, extent, means or manner that game animals,  
20 birds or fish may be hunted, taken, captured, killed,  
21 possessed, sold, purchased or shipped or of a violation of any  
22 of the provisions of Chapter 17 NMSA 1978, for which a  
23 punishment is not set forth under this section, shall be fined  
24 not less than [~~fifty dollars (\$50)~~] fifty dollars (\$50.00) or  
25 more than five hundred dollars (\$500) or imprisoned not more

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1 than six months or both.

2 E. The provisions of this section shall not be  
3 interpreted to prevent, constrain or penalize a Native  
4 American for engaging in activities for religious purposes, as  
5 provided in Section 17-2-14 or 17-2-41 NMSA 1978.

6 F. The provisions of this section shall not apply  
7 to a landowner or lessee, or employee of either of them, who  
8 kills an animal on private land, in which they have an  
9 ownership or leasehold interest, that is threatening human  
10 life or damaging or destroying property, including crops;  
11 provided, however, that the killing is reported to the  
12 department of game and fish within twenty-four hours and  
13 before the removal of the carcass of the animal killed; and  
14 provided further that all actions authorized in this  
15 subsection are carried out according to regulations of the  
16 department. "

17 Section 3. Section 17-2-26 NMSA 1978 (being Laws 1912,  
18 Chapter 85, Section 45, as amended) is amended to read:

19 "17-2-26. CIVIL LIABILITY. --

20 A. The director of the department of game and  
21 fish, or any other officer charged with enforcement of the  
22 laws relating to game and fish if so directed by the director,  
23 may bring a civil action in the name of the state against any  
24 person unlawfully wounding or killing, or unlawfully in  
25 possession of, any game quadruped, bird or fish, or part



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1       thereof, and recover judgment for the following minimum sums  
2       as damage for the taking, killing or injuring:

3	for each elk-----	\$ 500.00
4	for each deer-----	250.00
5	for each antelope-----	250.00
6	for each mountain sheep-----	1,000.00
7	for each Barbary sheep-----	250.00
8	for each black bear-----	500.00
9	for each cougar-----	500.00
10	for each bison-----	600.00
11	for each ibex-----	1,000.00
12	for each oryx-----	1,000.00
13	for each javelina-----	100.00
14	for each beaver-----	65.00
15	for each bird-----	20.00
16	for each fish-----	5.00
17	for each endangered species-----	500.00
18	for each raptor-----	200.00
19	for each turkey-----	150.00
20	<u>for each jaguar-----</u>	<u>1,000.00.</u>

21               B. No verdict or judgment recovered by the state  
22       in an action shall be for less than the sum fixed in this  
23       section. The action for damages may be joined with an action  
24       for possession, and recovery may be had for the possession as  
25       well as the damages.



1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

SB 252/a

3  
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5  
6 February 4, 1999

7  
8 Mr. President:

9  
10 Your CONSERVATION COMMITTEE, to whom has been referred

11  
12 SENATE BILL 252

13  
14 has had it under consideration and reports same with  
15 recommendation that it DO PASS, amended as follows:

16  
17  
18 1. On page 3, line 21, after "of" insert "the provisions  
19 of Subsection A of".

20  
21 2. On page 5, line 16, after "of" insert "the provisions  
22 of Subsection A of".

23  
24 3. On page 7, line 15, after "of" insert "the provisions  
25 of Subsection A of".,

FORTY- FOURTH LEGISLATURE  
FIRST SESSION, 1999

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and thence referred to the JUDICIARY COMMITTEE.

Respectfully submitted,

\_\_\_\_\_  
Fernando R. Macias, Chairman

Adopted \_\_\_\_\_ Not

Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 8 For 0 Against

Yes: 8

No: None

Excused: Eisenstadt, Vernon

Absent: None

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FORTY- FOURTH LEGISLATURE  
FIRST SESSION, 1999

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2 FIRST SESSI ON, 1999

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6 FORTY- FOURTH LEGI SLATURE  
7 FIRST SESSI ON, 1999  
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11  
12 February 17, 1999  
13

14 Mr. Presi dent:

15  
16 Your JUDI CIARY COMMI TTEE, to whom has been referred  
17

18 SENATE BILL 252, as amended  
19

20  
21 has had it under consideration and reports same with  
22 recommendation that it DO PASS.  
23

24 Respectfully submi tted,  
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FORTY- FOURTH LEGISLATURE  
FIRST SESSION, 1999

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Page 15

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Cisco McSorley, Vice Chairman

Adopted \_\_\_\_\_ Not

Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 5 For 0 Against

Yes: 5

No: None

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FORTY- FOURTH LEGISLATURE  
FIRST SESSION, 1999

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Excused: Aragon, Sanchez, Stockard

Absent: None

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FORTY- FOURTH LEGISLATURE

FIRST SESSION

February 22, 1999

SENATE FLOOR AMENDMENT number \_\_\_\_\_ to SENATE BILL 252,  
as amended

Amendment sponsored by Senator Patrick H. Lyons

1. On page 3, line 20, strike "one thousand dollars  
(\$1,000)" and insert in lieu thereof "two thousand dollars  
(\$2,000)".

2. On page 5, line 15, strike "one thousand five hundred  
dollars (\$1,500)" and insert in lieu thereof "four thousand  
dollars (\$4,000)".

3. On page 7, line 14, strike "three thousand dollars  
(\$3,000)" and insert in lieu thereof "six thousand dollars  
(\$6,000)".

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FORTY- FOURTH LEGISLATURE  
FIRST SESSION

SF1/SB 252

Page 18

4. On page 9, line 20, strike "1,000.00" and insert in lieu thereof "2,000.00".

Patrick H. Lyons

Adopted \_\_\_\_\_ Not Adopted

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

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1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

3  
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6 March 3, 1999

7  
8 Mr. Speaker:

9  
10 Your ENERGY AND NATURAL RESOURCES COMMITTEE, to  
11 whom has been referred

12  
13 SENATE BILL 252, as amended

14  
15 has had it under consideration and reports same with  
16 recommendation that it DO PASS, and thence referred to the  
17 JUDICIARY COMMITTEE.

18 Respectfully submitted,

19  
20  
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22 \_\_\_\_\_  
23 James Roger Madalena, Chair man  
24  
25

FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

Page 20

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 10 For 0 Against

Yes: 10

Excused: None

Absent: None

J: \99Bill\SWP\S0252

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